



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

MAILED

JAN 10 2000

Paper Number 12 Office of Director  
Technology Center 1600

In re Application of  
MERRIL et al  
Serial No. 08/879,139  
Filed: June 19,1997  
For: ANTIBACTERIL THERAPY WITH  
BACTERIOPHAGE GENOTYPICALLY  
MODIFIED TO DELAY  
INACTIVATION BY THE HOST  
DEFENSE SYSTEM

This is a decision on the petition, filed June 22, 1999, to withdraw the holding of abandonment under 37 CFR 1.181.

On October 2, 1998, an Office action was mailed to applicants, rejecting claims 31-40, all the claims in the application. On June 24, 1999, a Notice of Abandonment was mailed which indicated that the application was abandoned for failing to timely file a proper response to the office action mailed on October 2, 1998. On June 22, 1999, the present petition to withdraw the holding of abandonment was filed. The petition asserted that the Office action mailed on October 2, 1998 was never received.

The petition of June 24, 1999 provides the evidence required by 1156 O.G. 53 in support of the allegation of nonreceipt of the Office action in question. Accordingly, the petition is granted. The application has been returned to pending status and the Office action mailed on October 2, 1998 is being re-mailed herewith, with a response date to expire three (3) months from the date of this decision.

**PETITION GRANTED.**

*John Doll*  
John Doll, Director  
Technology Center 1600

Monica Chin Kitts  
Metropolitan Square  
655 Fifteenth Street, N.W.  
Suite 330 - G-Street Lobby  
Washington, D.C. 20005-5701